IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1442 OF 2004

Shrikant Babu Pujari. ... Appellant.
Versus.
Ananda Ganpati Pujari & others. ... Respondents.

Shri P.D.Dalvi for the Appellant.

Shri V.B.Rajure for the Respondents Nos.1 2 & 3A.

CORAM : ABHAY S. OKA, J.

DATED : 24th February, 2005.

P.C.:

1. Heard the learned Counsel for the parties. Shri Dalvi submitted that the suit was filed by the Respondents Nos.1 to 3 for perpetual injunction on the ground that they have exclusive right of worship in the Temple of Renukadevi. He submitted that though the original Plaintiffs failed to establish existence of such exclusive right the trial Court has granted relief in favour of the original Plaintiff which was not prayed for. He submitted that if the original Plaintiffs failed to establish their exclusive right of worship of the Goddess, suit simplicitor for injunction should have been dismissed. He submitted that in fact the relief granted by the trial Court is really in the nature of a declaratory decree.

2, I have considered the submissions. The trial Court has recorded finding of fact that the original

Plaintiffs do not have exclusive right to perform pooja but both the parties have right to perform pooja and in fact they were performing pooja by rotation.

3. After having found that the relief as prayed for could not be granted in favour of the original Plaintiffs and after having found that the Plaintiffs have established right to jointly worship the Goddess along with the original Defendants, the trial Court has moulded the relief. The Court had power to mould the reliefs so as to protect the rights of both the parties before it.

4. In this view of the matter, no substantial question of law arises. The Second Appeal is dismissed with no order as to costs.

Judge.